

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CLEVELAND EVANS,

Plaintiff,

v.

R. PERRY, et al.,

Defendants.

No. 2:23-cv-0076 TLN AC P

FINDINGS AND RECOMMENDATIONS


Plaintiff is a state prisoner proceeding without counsel in a civil rights action pursuant to 42 U.S.C. § 1983. On July 14, 2025, the court screened the first amended complaint and found that plaintiff's allegations against defendant Leslie were sufficient to state a Fourteenth Amendment procedural due process claim. ECF No. 20 at 3. The court also found that plaintiff's allegations against defendants Perry, Passwaters, Cross, and Warren did not state claims for relief. Id. at 3-5. Plaintiff was given the options of amending the complaint or proceeding immediately on his Fourteenth Amendment procedural due process claim against defendant Leslie. Id. at 5-7. He was further advised that if, within twenty-one days from the date of the order, he failed to notify the court how he wanted to proceed, the court would assume that he was choosing to proceed on the complaint as screened and would recommend dismissal without prejudice of plaintiff's claims under state law, the Eighth Amendment, the Fourteenth Amendment Equal Protection Clause, and Fourteenth Amendment based on classification, failure to investigate,

1 rejection of grievances, and loss of privileges. Id. at 7. The time for plaintiff to notify the court
2 as to how he wishes to proceed has now passed, and plaintiff has not made an election or
3 otherwise responded to the order.

4 Accordingly, IT IS HEREBY RECOMMENDED that for the reasons set forth in the July
5 14, 2025, screening order (ECF No. 20 at 3-5), all other claims against defendant Leslie and
6 plaintiff's claims under state law, the Eighth Amendment, Fourteenth Amendment Equal
7 Protection Clause, and Fourteenth Amendment based on classification, failure to investigate,
8 rejection of grievances, and loss of privileges against defendants Perry, Passwaters, Cross, and
9 Warren be dismissed without prejudice.

10 These findings and recommendations are submitted to the United States District Judge
11 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one days
12 after being served with these findings and recommendations, plaintiff may file written objections
13 with the court. Such a document should be captioned "Objections to Magistrate Judges Findings
14 and Recommendations." Plaintiff is advised that failure to file objections within the specified
15 time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153
16 (9th Cir. 1991).

17 DATED: September 2, 2025

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19 ALLISON CLAIRE
20 UNITED STATES MAGISTRATE JUDGE
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